

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
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APPLICATION NO:	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/674,726	07/02/96	MOSKOWITZ	S 2377/11

<input type="checkbox"/>	LM61/0930	<input type="checkbox"/>	EXAMINER
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		PAPER NUMBER	
		9	
		DATE MAILED:	09/30/98

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No. <b>08/674,726</b>	Applicant(s) <b>Moskowitz et al.</b>
Examiner <b>Hassan Kizou</b>	Group Art Unit <b>2732</b>

Responsive to communication(s) filed on Jul 2, 1998

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

Claim(s) 3-6 and 16-22 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 3-6 and 16-22 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter recited in claims 3-6 and 16-18 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

### ***Specification***

2. The disclosure is objected to because of the following informalities: on page 41, the equation in line 6 does not agree with the equation above it in line 5; the parentheses are misplaced.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. Claims 3-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear what is meant by the following: "a bandwidth securitization instrument" (*claims 3-6, 16-20 and 22*).

4. Claims 3-6 and 16-22 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification's disclosure does not describe the subject matter now recited in the claims. Specifically, the following is not described in the original

specification: “receiving at a computer system a value associated with the first component bandwidth resource unit; and assigning a value to the bandwidth securitization instrument without human intervention , based on the received value associated with the first component bandwidth resource unit”, recited in claim 3; “receiving at a computer system instructions to transfer the bandwidth securitization instrument from a first party to a second party; and transferring the bandwidth securitization instrument from the first party to the second party without human intervention”, recited in claim 4; estimating a demand at a given moment in time for the first component bandwidth resource unit; and assigning a value to the bandwidth securitization instrument without human intervention, based on the estimated demand for the first component bandwidth resource unit”, as recited in claim 5; “receiving a minimum standard price associated with the first component bandwidth resource unit; estimating a convenience premium for the bandwidth security instrument with respect to the minimum standard price; ... and assigning a value to the bandwidth securitization instrument, without human intervention ...”, as recited in claim 6. Similarly the steps recited in claims 16 and 18 are not described in the specification as originally filed.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 3-6, 16-20 and 22 are rejected under 35 U.S.C. 102(a) as being anticipated by the admitted prior art described on pages 32-38. Applicant merely proposes to set up an electronic market similar to or the same as the NASDAQ Market for selling, buying or exchanging the right to bandwidth components, treated as commodities, in a manner similar to that employed in the NASDAQ Market for selling, buying and exchanging other commodities.

***Conclusion***

7. Applicant's arguments with respect to claims 3-6 and 16-22 have been considered but are moot in view of the new ground(s) of rejection.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Hassan Kizou* whose telephone number is (703) 305-4744. The examiner can normally be reached on *Monday through Friday* from *7:30 am to 5:00 pm*.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Douglas Olms*, can be reached on (703) 305-4703.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 308-9051, (for formal communications intended for entry)

**Or:**

(703) 308-5403 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2021 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).



**Hassan Kizou**  
**Primary Examiner**

September 27, 1998